

REMARKS/ARGUMENTS

Claims 1-5 and 8-19 are pending in this application. By this Amendment, Claims 1, 2 and 17 are amended and Claim 7 is cancelled. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Except as indicated otherwise in the remarks set forth below, the amendments are made for the purpose of addressing informalities pointed out by the Examiner or for grammatically improving the clarity of the claims, and are not required to overcome any prior art. No new matter is added.

Claim 1 is amended to clarify that it is limited to an artificial ornament in the shape of a fungus. Support for this amendment resides throughout the specification, for example, at Page 2, lines 15-16. In addition, the feature that the stalk member connection part is tapered and comprises a tapered screw thread has been incorporated into Claim 1. Consequently, Claim 7 has been cancelled. Support for the second amendment of Claim 1 noted above resides throughout the specification, for example, at Page 3, lines 7-9. Claim 2 is amended for clarity to change the word "connection" at the end of the second line to "connected". Finally, Claim 17 is amended to reflect the amendments made to Claim 1.

PRIOR ART REJECTION

Claims 1-3 and 7-19 stand rejected under 35 U.S.C. §103(a) over Bowen (U.S. Patent No. 206,387) in view of Del Mas (U.S. Patent No. 2,760,303). This rejection is respectfully traversed for at least the reasons set forth below.

The Examiner admits that Bowen does not teach a threaded tapering projection pin and asserts that it would have been obvious to combine a tapered threaded screw of Del Mas with the artificial plant in Bowen to provide a more secure attachment. However, the combination of Bowen and Del Mas would not have resulted in the claimed features, at least because the combination does not teach the claimed fungus-shaped artificial ornament, and a connection part that is tapered and comprises a tapered screw thread.

Regarding the rejection of independent Claims 1 and 17-19, it is not disputed that Bowen teaches an artificial plant having a stalk or trunk member and blooms of a flower or plant connected by a spirally curved wire. However, Bowen does not teach fungus-shaped articles. The Examiner's contention on Page 7 of the Office Action that a fungus is considered to be a plant, and that the disclosure of Bowen therefore encompasses fungus-shaped ornaments appears to be misguided, given that plants and fungi are distinct from one another and are different species. As an example of the differences between plants and fungi, plants fix their own carbon through photosynthesis, whereas fungi digest organic matter. Therefore, a fungus is not a plant and Bowen does not teach an ornament having a shape of a fungus, as recited in the independent claims. Del Mas discloses an artificial toy stimulating a miniature human figure comprising various body components which are linked together by springs. However, Del Mas does not disclose or teach fungus-shaped articles. Therefore, the combination of Bowen and Del Mas would not have resulted in an artificial ornament in the shape of a fungus, as recited in independent Claims 1, 17, 18 and 19.

Next, regarding independent Claims 1 and 17, the combination of Bowen and Del Mas would not have resulted in the claimed connection part (or stalk member) having a tapered screw

thread. As noted above, the Examiner admits that Bowen does not teach this feature and relies upon Del Mas for its teaching. Fig. 11 of Del Mas shows a modified manner of attachment of a spring 44 to a peg 25 in which the peg is provided with spaced spirally disposed bridges 47 forming a thread which serves to threadedly receive the upper end of the spring. However, the spirally disposed ridges 47 asserted by the Examiner as the claimed screw threads are not tapered. In fact, tapered screw threads are not disclosed or suggested by Del Mas. Therefore, if, *en arguendo*, a person skilled in the art were to modify the teaching of Bowen by incorporating the screw thread of Del Mas, the person would incorporate a non-tapered screw thread into the stalk member connection part of Bowen. Therefore, a combination of Bowen and Del Mas would not have resulted in a connection part (or stalk member) having a tapered screw thread as recited in independent Claims 1 and 17.

Moreover, the Applicant respectfully submits that a person skilled in the art to which the present invention pertains (i.e., the manufacture of garden ornaments) would not have looked to Del Mas for teachings as to how to modify Bowen. Del Mas is from a completely unrelated field, namely amusement devices and toys simulating the human figure, as set forth at Column 1, lines 15-17 of Del Mas. Moreover, Del Mas does not provide any incentive or direction to use a tapered screw thread in the field of garden ornaments. Indeed, Del Mas does not even teach tapered screw threads.

In the instant case, there is no teaching nor suggestion in the cited prior art references for use of a connection part which comprises a tapered screw thread as one end of a stalk member of a fungus shaped artificial ornament which engages a resiliently flexible connection means to interconnect a head member to the stalk member, as recited in Claims 1 and 17. Moreover, there

is no teaching of any incentive for such a modification. Any suggestion of obviousness could only result upon a reading of the subject matter of the present invention into the cited references, where no such disclosure exists. In particular, the only way to make such a rejection of the claims would be to impermissibly use the Applicant's own teaching to hunt through the prior art for the claimed elements and combine them as claimed.

In summary, if, *en arguendo*, a skilled person were to make a leap of faith (as required by the subject rejection) and consider combining the teachings of Bowen and Del Mas, that person would realize the combination of references would not result in the recited features of the independent Claims 1 and 17-19 because the combination would not result in an artificial fungus-like or fungus shaped ornament. Moreover, the combination would not have resulted in a connection part (or stalk member) having a tapered screw thread, as recited in independent Claims 1 and 17. Accordingly, Applicant respectfully submits that independent Claims 1 and 17-19 are allowable over the cited references. Claims 2-5 and 8-16 depend from Claim 1 and are also believed to be allowable for at least the reasons discussed above. Withdrawal of the rejection of the claims under 35 U.S.C. §103(a) is respectfully requested.

CONCLUSION

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOV, LTD.

By



Michael J. Cornelison
Registration No. 40,395
Customer No. 03000
(215) 567-2010
Attorneys for Applicant

May 3, 2007

Please charge or credit our Account
No. 03-0075 as necessary to effect
entry and/or ensure consideration of
this submission.